

REMARKS

Claim 1 has been amended to include the limitations of claim 2 (which is equivalent to rewriting claim 2 in independent form) and claim 2 has been canceled.

In view of the amendment to claim 1, the 35 U.S.C. § 102 rejection of claim 1 is now moot. Claim 2 was not included in the 35 U.S.C. § 102 rejection.

In the Action, claim 2 is rejected under 35 U.S.C. §103(a) as being unpatentable over Chamuel in view of Rantanen-Lee (United States Patent No. 5,035,399). Reconsideration and removal of this rejection, which is now applicable to claim 1 as amended, is respectfully requested. The proposed modification of the clamp of Chamuel will not result in the clamp of the present invention. Moreover, the requisite motive to modify the clamp of Chamuel as proposed in the Action is not provided by the prior art.

First, contrary to the allegation in the 35 U.S.C. § 103(a) rejection, Chamuel does not disclose the claimed invention except for the right and left engaging hooks on the distal end of the upper member. Claim 1 recites that the upper member and the lower member are detachably engaged at distal ends thereof. The clamp of

Chamuel can not be interpreted as having a structure in which the upper and lower members of the clip are detachably engaged. Chamuel in Col. 3, lines 8-12, describes that "[i]ncluding bends, the compression portion is slightly longer than the alignment portion 26 such that the sliding surface 32 is closer to the injecting end of the needle 24 than the contacting portion of guide means 28." Therefore, it is not possible for the upper member and the lower member of Chamuel to be detachably engaged at distal ends thereof, with or without hooks provided at the distal end of the upper member and engaged portions provided on the lower member, because the distal ends of these members are not in alignment.

Additionally, a clearance is not provided between the upper member and the lower member of the clamp of Chamuel "through which a hub with a wing is introduced when the clamp is disposed on said tube and said hub with a wing is slid into the clamp" (Action, page 2, lines 5-6 of the second paragraph of the 35 U.S.C. § 102 rejection); a pressurizing portion is not provided on the upper member or lower member of the clamp of Chamuel "for engaging and pressurizing said tube when said members are engaged" (Action, page 2, lines 7-8 of the second paragraph of the 35 U.S.C. § 102

rejection); and a space "for storing said needle cannula and said hub" (Action, page 2, lines 8-9 of the second paragraph of the 35 U.S.C. § 102 rejection) is not provided in the upper member or lower member.

The hypodermic needle of Chamuel is different from the winged needle to which the clamp of the present invention is to be applied. The latter needle is provided with a wing 43, a hub of the wing 42 and a tube 44. However, the needle 24 of Chamuel is provided with a syringe/needle interface or hub 35, but not a wing, the hub of a wing and a tube. Thus, the hypodermic needle in Chamuel does not include a hub with a wing; the clamp of Chamuel is not provided on a tube that can be pressurized; and the hub of the hypodermic needle of Chamuel cannot be positioned in said clamp.

For each of these reasons, the proposed modification of the clamp of Chamuel will not result in the clamp of the present invention.

Rantanen-Lee does not provide a motive for modifying the clamp of Chamuel to include hooks as alleged in the Action because, as explained above, the distal ends of the upper and lower members of the clip of Chamuel do not engage with each other. Additionally,

the structure of the clip of Chamuel is such that the upper and lower members of the clip are biased toward each other and are maintained in a closed position when the needle is retracted. Therefore, the clip of Chamuel does not require hooks to remain in a closed position.

Additionally, the apparatus for occluding resilient tubing to interrupt the flow of a fluid therethrough in Rantanen-Lee is not for a hypodermic needle. Tubing is different from a needle. Although a needle is required to be protected with a needle protection device after use, tubing is not required to be protected.

Applicants also note that if the upper portion and the lower portion are engaged with left and right hooks in the clamp of Chamuel, the tip of the needle cannot be protected with the upper portion in Fig. 3. Chamuel discloses that "[a]butting engagement surface 34 engages the injecting end in abutting relation and a friction engagement surface 36 snaps against a portion of needle 24 so as to engage the safety clip" (Col. 3, lines 39-42) and that "[t]he bottom 27 of guide means 28 also contacts the periphery of the needle and exerts a force thereon." (Col. 2, lines 66-67).

PATENT APPLN. NO. 09/870,583  
RESPONSE UNDER 37 C.F.R. § 1.116

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Removal of the 35 U.S.C. § 103(a) rejection and an allowance of claim 1 are in order and are respectfully requested.

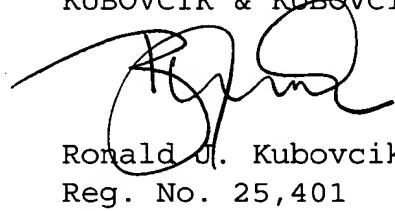
The foregoing is believed to be a complete and proper response to the Office Action dated July 29, 2003, and is believed to place this application in condition for allowance. If, however, minor issues remain that can be resolved by means of a telephone interview, the Examiner is respectfully requested to contact the undersigned attorney at the telephone number indicated below.

In the event that this paper is not considered to be timely filed, applicants hereby petition for an appropriate extension of time. The fee for any such extension may be charged to our Deposit Account No. 111833.

In the event any additional fees are required, please also charge our Deposit Account No. 111833.

Respectfully submitted,

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